

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NEW PRIME, INC.,

Plaintiff,

v.

**3:14-CR-2410
(JUDGE MARIANI)**

**BRANDON BALCHUNE
CONSTRUCTION, INC., POCONO
TRANSCRETE, INC., PATRICK
MCLAINE, P.E., CIVIL DESIGN
PARTNERS, INC., JERRY RANIELI,
SAMUEL J. MARRANCA, SAMUEL J.
MARRANCA GENERAL CONTRACTING
CO., MIDLANTIC ENGINEERING, INC.**

Defendants.

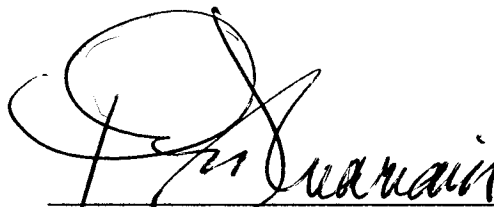
ORDER

AND NOW, THIS 15th DAY OF DECEMBER, 2017, upon consideration of the Motion for Summary Judgment of Defendant Midlantic Engineering, Inc. ("Midlantic") (Doc. 210), and all accompanying briefs, **IT IS HEREBY ORDERED THAT:**

1. The Motion (Doc. 210) is **DENIED** in part and **GRANTED** in part, to wit:
 - a. The Motion is **DENIED** with respect to Plaintiff's breach of contract claim (Count X) and negligence claim (Count XI);
 - b. The Motion is **DENIED** with respect to Defendants Samuel J. Marranca and Samuel J. Marranca General Contracting Co.'s crossclaim against Midlantic (Doc. 201); Defendant Brandon Balchune Construction, Inc.'s crossclaim

against Midlantic (Doc. 212); and Defendant Pocono Transcrete, Inc.'s crossclaim against Midlantic (Doc. 161).

- c. The Motion is **GRANTED IN PART AND DENIED WITHOUT PREJUDICE IN PART** with respect to Midlantic's crossclaim for indemnification against Defendant Brandon Balchune Construction, Inc. ("Balchune"). The Court declares that the indemnification agreement between Midlantic and Brandon Balchune Construction, Inc. is not void for public policy. Whether the indemnification agreement should be enforced, whether Balchune is to indemnify Midlantic, or whether Midlantic is to indemnify Balchune are determinations that must await the jury's verdict as to which party was negligent, and whether such negligence presents a basis for a claim of indemnification against the other.
2. A telephone scheduling conference **SHALL BE CONDUCTED** on **Thursday, January 4, 2018 at 4:30 p.m.** for purposes of scheduling this matter for trial. Counsel for the Plaintiff is responsible for arranging the call to Chambers at (570) 207-5750 and all participants should be prepared to proceed before the undersigned is contacted.

A handwritten signature in black ink, appearing to read "R. Mariani", written over a horizontal line.

Robert D. Mariani
United States District Judge